

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : 1:18-cr-00098-PAC
- against - : **ORDER**
Michael McIntyre, :
Defendant-Petitioner. :

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HONORABLE PAUL A. CROTTY, United States District Judge:


Defendant Michael McIntyre, *pro se*, moves this Court to issue a recommendation to the Bureau of Prisons (“BOP”) to grant the petitioner the maximum amount of time in a Residential Re-entry Center / Halfway House prior to his anticipated release date of December 20, 2020. Dkt. 31, at 1. McIntyre has completed the BOP’s 500 Hour Residential Drug Abuse Program (“RDAP”) and a considerable number of educational programs, and has earned his GED while imprisoned. Dkt. 31, at 1, Attach. A. The Government opposes the motion, arguing that sole discretion to provide the relief sought by the Defendant has been committed to the BOP by Congress. Dkt. 32, at 1.

18 U.S.C. § 3624(c)(1) provides that the BOP “shall, to the extent practicable, ensure” that a prisoner spend up to the final 12 months of his term under conditions that facilitate his reentry as a productive member of our society. “Such conditions may include a community correctional facility.” 18 U.S.C. § 3624(c)(1). The Court balances this statutory grant of discretion against 18 U.S.C. § 3621(b), which states the BOP “may designate any available penal or correctional facility . . . that the Bureau determines to be appropriate and suitable” after considering, *inter alia*, “any statement by the court that imposed the sentence . . . recommending a type of penal or correctional facility as appropriate.”

Other courts grant recommendations such as that sought by the Defendant, and the Court sees no reason not to do so here. *See United States v. Patterson*, No. 2:00cr187, 2019 WL 127962, at *2 (E.D. Va. Jan. 8, 2019); *United States v. Turnquist*, No. 1:12-cr-000173 AWI, 2018 WL 2460286, at *2 (E.D. Cal. May 31, 2018). Accordingly, the Defendant's motion is GRANTED. The Court hereby recommends to BOP, pursuant to 18 U.S.C. § 3621, that McIntyre be placed in a Residential Re-entry Center / Halfway House for the maximum length of time for which he is eligible. The Clerk of Court is instructed to close the motion at Dkt. 31.

Dated: New York, New York
January 14, 2020

SO ORDERED



PAUL A. CROTTY
United States District Judge